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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/531,743	03/21/2000	Steven Jeromy Carriere	57921/107	7120

7590 01/30/2006

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EXAMINER

FISCHER, ANDREW J

ART UNIT PAPER NUMBER

3627

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/531,743

Applicant(s)

CARRIERE ET AL.

Examiner

Andrew J. Fischer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-32 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 C.F.R. §1.114

1. A request for continued examination (“RCE”) under 37 C.F.R. §1.114, including the fee set forth in 37 C.F.R. §1.17(e), was filed in this application on October 25, 2005 (“Second RCE”). This application was under a final rejection (the “Second Final Office Action” mailed June 20, 2005) and is therefore eligible for continued examination under 37 C.F.R. §1.114. Because the fee set forth in 37 C.F.R. §1.17(e) has been timely paid, the finality in the Second Final Office Action has been withdrawn pursuant to 37 C.F.R. §1.114.

Acknowledgements

2. In accordance with the Second RCE noted above, Applicants’ amendment filed October 25, 2005 is acknowledged. Accordingly, claims 1-32 remain pending.
3. This Office Action is given Paper No. 20060123.
4. The examiner for this application has changed. Please indicate Examiner Andrew J. Fischer as the examiner of record in all future correspondences.
5. All references in this Office Action to the capitalized versions of “Applicants” refers specifically the Applicants of record. References to lower case versions of “applicant” or “applicants” refers to any or all patent “applicants.” Unless expressly noted otherwise, references to “Examiner” in this Office Action refers to the Examiner of record while reference to or use of the lower case version of “examiner” or “examiners” refers to examiner(s) generally.

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This Office Action is written in OACS. Because of this, the Examiner is unable to control formatting, paragraph numbering, font, spelling, line spacing, and/or other word processing issues. The Examiner sincerely apologies for these errors.

Restriction

6. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-8, drawn to a method of funneling user responses, classified in class 705, subclass 6.
 - II. Claims 9-16 and 31, drawn to a system, classified in class 705, subclass 21.
 - III. Claims 17-27 and 32, drawn to a voice portal, classified in class 379, subclass 67.
 - IV. Claims 28-30, drawn to a method of operating, classified in class 705, subclass 7.

The inventions are distinct, each from the other because of the following reasons:

7. Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the process as claimed can be practiced by another materially different apparatus—one that does not include a user interface.

8. Because these inventions are distinct for the reasons given above, because these inventions have acquired a separate status in the art as shown by their different classification and divergent subject matter, and because the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

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9. Inventions I and III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the process as claimed can be practiced by another materially different apparatus—one that does not include a user interface.

10. Because these inventions are distinct for the reasons given above, because these inventions have acquired a separate status in the art as shown by their different classification and divergent subject matter, and because the search required for Group I is not required for Group III, restriction for examination purposes as indicated is proper.

11. Inventions I and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation.

12. Because these inventions are distinct for the reasons given above, because these inventions have acquired a separate status in the art as shown by their different classification and divergent subject matter, and because the search required for Group I is not required for Group IV, restriction for examination purposes as indicated is proper.

13. Inventions II and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant

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case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination does not require the means for querying a user. The subcombination has separate utility such as tool to help the visually impaired.

14. Because these inventions are distinct for the reasons given above, because these inventions have acquired a separate status in the art as shown by their different classification and divergent subject matter, and because the search required for Group II is not required for Group III, restriction for examination purposes as indicated is proper.

15. Inventions II and IV are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as claimed can be used to practice another and materially different process—one that does not include building a vocabulary set.

16. Because these inventions are distinct for the reasons given above, because these inventions have acquired a separate status in the art as shown by their different classification and divergent subject matter, and because the search required for Group II is not required for Group IV, restriction for examination purposes as indicated is proper.

17. Inventions III and IV are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as

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claimed can be used to practice another and materially different process—one that does not include building a vocabulary set.

18. Because these inventions are distinct for the reasons given above, because these inventions have acquired a separate status in the art as shown by their different classification and divergent subject matter, and because the search required for Group III is not required for Group IV, restriction for examination purposes as indicated is proper.

19. Because this is a four way restriction, the restriction is considered complex.

20. Applicants are advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 C.F.R. §1.143).

21. If Applicants argue that any two group of Inventions are not patentably distinct, the Examiner may withdraw the restriction between those two inventions. Thus, the Examiner will maintain the restriction if the groups of inventions are patentably distinct.

22. Applicants are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. §1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 C.F.R. §1.48(b) and by the fee required under 37 C.F.R. §1.17(i).

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Fischer whose telephone number is (571) 272-6779.

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24. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

25. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrew J Fischer
Primary Examiner
Art Unit 3627

AJF
January 22, 2006